

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR FILING APPLICATION UNDER RULE 1.53(b)**

Pursuant to 37 CFR 1.53(b), please file a continuation/ divisional of the pending prior PATENT APPLICATION of:

Inventor: Reid W. von Borstel

Serial No. 09/144,096

Filed: April 20, 2001

04/20/01

For: **COMPOSITIONS AND METHODS FOR TREATMENT OF MITOCHONDRIAL DISEASES**

Assistant Commissioner for Patents

Washington, DC 20231

Sir:

This request for filing under Rule 53(b) is made by the following named inventor(s) (using the above-identified title):

Inventor(s): Reid W. von Borstel

Atty Dkt.: 1331-337

C# M#

Date: April 20, 2001

Group:

Examiner:

jc872 U.S. PRO
09/838136
04/20/01

- Attached is a true copy of the prior application as originally filed including the specification, claims, Oath/Declaration and drawings (if any) and abstract (if any). No amendments (if any) referenced in the Oath or Declaration filed to complete the prior application introduced new matter.
- Priority is hereby claimed under 35 USC 119 based on the following foreign applications, the entire content of which is hereby incorporated by reference in this application:

| <u>Application Number</u> | <u>Country</u> | <u>Day/Month/Year Filed</u> |
|---------------------------|----------------|-----------------------------|
|---------------------------|----------------|-----------------------------|

- certified copy(ies) of foreign application(s) attached or
 already filed on _____ in prior appln. no. _____ filed _____
 already filed in _____ filed _____
- Please amend the specification by inserting before the first line: -- This application claims the benefit of U.S. Provisional Application No. _____, filed _____, the entire content of which is hereby incorporated by reference in this application.--
- The prior application is assigned to Pro-Neuron, Inc..
- Power of Attorney has been granted to Leonard C. Mitchard et al, Reg. No. 29,009 of Nixon & Vanderhye P.C., 1100 N. Glebe Rd., 8th Floor, Arlington, VA 22201.
- Address all future communications to: Nixon & Vanderhye P.C., 1100 N. Glebe Rd., 8th Floor, Arlington, VA 22201.
- Please amend the specification by inserting before the first line --This is a continuation of application Serial No. 09/144,096, filed August 31, 1998, now pending, the entire content of which is hereby incorporated by reference in this application.--
- This application is entitled to "Small entity" status. "Small entity" statement attached.
- Petition filed in prior application to extend its life to insure co-pendency.
- The Examiner's attention is directed to the prior art cited in the parent application by applicant and/or Examiner for the reasons stated therein.
- Please enter the attached preliminary amendment prior to calculation of filing fee:
- The entire disclosure of the prior application above-referenced is considered as being part of the disclosure of this new application and is hereby incorporated by reference therein.
- Also attached: Information Disclosure Statement ; Non-Publication Request; Other:

FILING FEE IS BASED ON CLAIMS AS FILED LESS ANY HEREWITH CANCELED

| | | | |
|--|---------------------------|----|----------|
| Basic Filing Fee | | \$ | 710.00 |
| Total effective claims 43 - 20 (at least 20) = 23 | x \$ 18.00 | \$ | 414.00 |
| Independent claims 5 - 3 (at least 3) = 2 | x \$ 80.00 | \$ | 160.00 |
| If any proper multiple dependent claims now added for first time, add \$270.00 (ignore improper) | | \$ | 0.00 |
| | SUBTOTAL | \$ | 1284.00 |
| If "small entity," then enter half (1/2) of subtotal and subtract | | \$ | (642.00) |
| | SECOND SUBTOTAL | \$ | 642.00 |
| Assignment Recording Fee (\$40.00) | | \$ | 0.00 |
| | TOTAL FEE ENCLOSED | \$ | 642.00 |

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

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Telephone: (703) 816-4000
Facsimile: (703) 816-4100
LCM:lks

NIXON & VANDERHYE P.C.

By Atty: Leonard C. Mitchard, Reg. No. 29,009

Signature: 